

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUIS HERRERA,

Defendant.

2:08-CR-S-343 JCM (NJK)

ORDER

Presently before the court is pro se and incarcerated defendant Luis Herrera's motion to run federal sentence concurrent or partially concurrent with state sentence. (Doc. # 50). The government has not filed a response.

The movant does not state the date when he began his state sentence, the time line of his federal and state convictions and sentencings, or the statutory or legal authority under which the court could run his federal sentence concurrent or partially concurrent with his state sentence. The movant does not state the basis on which he would be eligible for receiving a concurrent sentence.

The movant makes a general assertion that he was sentenced in federal court prior to any sentencing in state court. If this is true then this court did not have the authority to authorize concurrent sentences. "[A] federal court cannot order a sentence to be served concurrently with a sentence, including a state sentence, that has not yet been imposed." *Reynolds v. Thomas*, 603 F.3d 1144, 1149 (9th Cir. 2010) (internal citations omitted).

Further, it appears that movant may also be requesting the court to credit his federal sentence by the amount of time he served in a prior, completed state sentence. The court finds that based on

1 the information available to it and the information provided in defendant's motion, which is
2 essentially no information, there is no reason to grant a concurrent sentence.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant's motion to run
5 federal sentence concurrent or partially concurrent with state sentence (doc. # 50) be, and the same
6 hereby, is DENIED.

7 DATED February 19, 2013.

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10 UNITED STATES DISTRICT JUDGE